

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ELECTRIC MIRROR, LLC,)	
a Washington Limited Liability Company,)	
Plaintiff,)	CIVIL ACTION NUMBER:
v.)	1:17-cv-01747-ALC
)	
PROJECT LIGHT, LLC,)	
an Ohio Limited Liability Company,)	
PROJECT LIGHT, INC.,)	
an Ohio Corporation,)	
PROSPETTO LIGHT, LLC,)	
an Ohio Limited Liability Company, and)	
PROSPETTO LIGHTING, LLC,)	
an Ohio Limited Liability Company,)	
Defendants.)	

JOINT STATUS REPORT

Pursuant to the Court’s November 30, 2017 Order (Dkt. 29) and the Court’s January 10, 2018 Order (Dkt. 34), Plaintiff Electric Mirror, LLC (“Plaintiff”) and Defendants Project Light, LLC, Project Light, Inc., Prospetto Light, LLC (“Prospetto Light”), and Prospetto Lighting, LLC (“Prospetto Lighting”) (collectively, “Defendants”) submit this joint status report related to the pending stay.

Plaintiff’s Statement

By way of motion by Defendants (Doc. 25), on August 7, 2017, the Court stayed this matter pending disposition of a related proceeding before the United States International Trade Commission (“ITC”) pursuant to 28 U.S.C. § 1659(a). (Doc. 28). On January 19, 2018, the ITC concluded that the respondents, i.e., the Defendants in the present case, had defaulted and issued remedial orders. (*See* Ex. A). Pursuant to 19 U.S.C. § 1337(j), the ITC’s determination is not final until after a sixty day presidential review, which would end on or before March 20, 2018. (*See* Ex. B). Furthermore, a party that is adversely affected by an ITC final determination “may

appeal such determination within 60 days after the determination becomes final, to the United States Court of Appeals for the Federal Circuit.” 19 U.S.C. § 1337(c). 28 U.S.C. § 1659(a) provides that “the district court shall stay, until the determination of the Commission becomes final...” (emphasis added). As such, Plaintiff’s position is that the stay under § 1659(a) should remain until the ITC’s determination becomes final, i.e., until after Presidential review has concluded and any prospect of appeal has been extinguished. Further, any move to transfer this matter is premature.

Defendants’ Statement

It is the Project Light Entities’ position that the patent, U.S. Patent No 7,853,414, which is the subject to the ITC’s determination, is invalid and will be arguing such once the stay in this matter has been lifted.

Furthermore, Project Light Entities have apprised the Plaintiff, Electric Mirror, that its chosen venue for this action is improper pursuant to the United States Supreme Court decision in *TC Heartland LLC v. Kraft Food Grp Brands, LLC*, 137 S. Ct. 1514 (2017) in that the Southern District of New York is neither within the state of incorporation for any of the Defendants, nor where any of the Defendants has committed acts of infringement and has a regular and established place of business. The Plaintiff recently conceded a motion to dismiss for improper venue based on this same argument in a case the brought in the United States District Court for the Western District of Washington entitled *Electric Mirror, LLC v. Majestic Mirrors & Frame*, C17-352 TSZ. (See, Ex. C). The Defendants have requested that the Plaintiff concede to transfer venue to the United States District Court for the Southern District of Florida once the stay is lifted and are awaiting Plaintiff’s response regarding the same. In the event the Plaintiff does not concede to a transfer of venue, it is the Defendants’ intention to move pursuant to

F.R.C.P 12(b)(3) (or in alternative 28 U.S.C. §1404) and 12(b)(6) to dismiss the Plaintiff's complaint for improper venue and/or for failure to state a claim.

Respectfully submitted,

Dated: March 12, 2018

/s/ Edward P. Bakos
Edward P. Bakos
(ebakos@bakoskritzer.com)
Noam J. Kritzer
(nkritzer@bakoskritzer.com)
Bakos & Kritzer
147 Columbia Turnpike
Florham Park, New Jersey 07932
Telephone: 908-273-0770
Facsimile: 973-520-8260

Stephen J. Rosenman
(srosenman@capiplaw.com)
Richard S. Meyer
(rmeyer@capiplaw.com)
CAPITAL IP LAW GROUP PLLC
5335 Wisconsin Ave NW, Suite 440
Washington, DC 20015
Telephone: (202) 243-0599

Counsel for Plaintiff:
Electric Mirror, LLC

/s/ Christopher J. Sovak
Christopher J. Sovak (CS 3164)
csovak@bushellsovak.com
Cem Ozer (CS 1718)
cozer@bushellsovak.com
BUSHELL, SOVAK, OZER & KANE LLP
274 Madison Avenue, Suite 901
New York, New York 10016
Tel: (212) 949-4700
Fax: (212) 286-0513

Counsel for Defendants:
Project Light, LLC,
Project Light, Inc.,
Prospetto light, LLC, and
Prospetto Lighting, LLC

CERTIFICATE OF SERVICE

I certify that on March 12, 2018, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all attorneys of record herein at their respective addresses as disclosed on the pleadings.

Dated: March 12, 2018

/s/ Edward P. Bakos
Edward P. Bakos
Bakos & Kritzer
147 Columbia Turnpike
Florham Park, New Jersey 07932
Telephone: 908-273-0770
Facsimile: 973-520-8260
(ebakos@bakoskritzer.com)

Counsel for Plaintiff:
Electric Mirror, LLC